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UNITED STATES—JAPAN STRUCTURAL IMPEDIMENTS INITIATIVE (SII)

HEARING BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE OF THE COMMITTEE ON FINANCE UNITED STATES SENATE — ONE HUNDRED FIRST CONGRESS FIRST SESSION

—
JULY 20, 1989
—

(Part 1 of 3)



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UNITED STATES-JAPAN STRUCTURAL IMPEDIMENTS INITIATIVE (SII)

THURSDAY, JULY 20, 1989

U.S. SENATE,
SUBCOMMITTEE ON INTERNATIONAL TRADE,
COMMITTEE ON FINANCE,
Washington, DC.

The hearing was convened, pursuant to notice, at 2:06 p.m., in room SD-215, Dirksen Senate Office Building, Hon. Max Baucus (chairman of the subcommittee) presiding.

Also present: Senators Danforth and Heinz.

[The press release announcing the hearing follows:]

[Press Release No. H-42, July 12, 1989]

FINANCE SUBCOMMITTEE ON TRADE TO HOLD HEARING ON UNITED STATES-JAPAN STRUCTURAL IMPEDIMENTS INITIATIVE

WASHINGTON, DC—Senator Max Baucus (D., Montana), Chairman, announced Wednesday the Subcommittee on International Trade will hold a hearing on the U.S.-Japan Structural Impediments Initiative (SII).

The hearing is scheduled for *Thursday, July 20, 1989 at 2 p.m.* in room SD-215 of the Dirksen Senate Office Building.

The SII was launched by the Bush Administration on May 25 when the Administration announced its Super 301 priority foreign country designations. The SII is designed to eliminate structural barriers to expanding U.S. exports to Japan, such as the Japanese distribution system and collusive Japanese business practices.

"Announcing the Structural Impediments Initiative was a promising first step for the Bush Administration. I have long advocated broader talks with the Japanese on mutual trade and economic problems. But the Administration must do more than just make an announcement. Congress views the SII as part of the Super 301 process and will be looking for concrete results, not just endless talks," Senator Baucus said.

Administration witnesses only will be invited to testify at this hearing, and will include each of the lead U.S. government agencies involved in the SII—the Office of the U.S. Trade Representative, the State Department, and the Treasury Department.

OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM MONTANA

Senator BAUCUS. The subcommittee will come to order.

On May 25, 1989 the administration launched the Structural Impediments Initiative as part of its efforts to implement the Super 301 provision of the 1988 Trade Act. The Structural Impediments Initiative is designed to address structural barriers to increasing U.S. exports to Japan. It is to be led by three government agencies—the Office of the U.S. Trade Representative, the U.S. Treasury Department and the U.S. State Department.

The initiative is aimed at the real barriers to increasing U.S. exports to Japan, the Japanese distribution system, anti-competitive practices and low consumer demand. The Japanese have rightly responded that this forum should also be used to address some of the problems on the U.S. side that contribute to the U.S. trade deficit. I welcome the announcement of the Structural Impediments Initiative. I have for several years advocated working toward a broader agreement with the Japanese to address these underlying trade economic problems.

Some of my colleagues have been suspicious of the administration's motives in launching the initiative. Certainly, I would have preferred to see many of these problems be addressed directly under Super 301. But I am willing to give the administration a chance to make the initiative work.

That said, the administration, especially representatives of the three elite agencies represented here, should know that Congress expects results from the Structural Impediments Initiative. We watched the previous administration talk a great deal and accomplish very little in the so-called structural dialogue with Japan in 1985 and 1986. We are not looking for a repeat.

The 24-percent deterioration in the trade deficit announced this week only emphasizes the need to pursue a coordinated, results oriented strategy designed to increase U.S. exports to Japan. In my view, the Structural Impediments Initiative is a critical element of the administration's effort to implement the Super 301 provision. In fact, the Structural Impediments Initiative will be far more important in the long term than the three cases that were initiated against Japan under Super 301.

That is not to understate the importance of the three cases. They are good, solid cases. I believe we will succeed in eliminating at least some of the barriers that keep U.S. forest products, super computers and satellites out of Japan. But only the Structural Impediments Initiative holds out the prospect of significantly improving the overall bilateral trade deficit. We must judge the success or the failure of the initiative not in how many talks are held, not by how many communiques are issued, but by its concrete contribution to expanding the U.S. exports to Japan.

To remain credible, these talks must focus on significant trade problems, not on papering over differences. In this regard, it is critical that the U.S. Trade Representative retain a very prominent role in the process. USTR has a strong reputation on the Hill, particularly in this committee, in Japan, as an agency that works to get results. Likewise, the Treasury Department and the State Department are critical to the success of this effort.

The USTR's involvement makes the Structural Impediments Initiative, I think, very credible. I hope that the Japanese view the Structural Impediments Initiative as an opportunity, rather than more U.S. nagging. The two largest economies in the world must develop a harmonious, cooperative, economic relationship otherwise we both lose. Both nations have problems that must be addressed. Both nations could use the pressure of international negotiations to help them do what they know they should do.

If we are not able to iron out the serious problems that the Structural Impediments Initiative attempts to address, there are

very dark storm clouds on the horizon for the United States-Japanese relationships.

I am pleased to welcome our three witnesses. First, Secretary Mulford of the Treasury Department; Ambassador Linn Williams from USTR; and Richard McCormack, who is the Under Secretary of State. I look forward to their testimony.

Senator Danforth.

Senator DANFORTH. No questions, Mr. Chairman.

Senator BAUCUS. Senator Heinz.

Senator HEINZ. No comment at this time.

Senator BAUCUS. Okay.

Secretary Mulford, why don't you begin.

STATEMENT OF HON. DAVID C. MULFORD, UNDER SECRETARY FOR INTERNATIONAL AFFAIRS, U.S. DEPARTMENT OF THE TREASURY

Mr. MULFORD. Mr. Chairman, and members of the committee, I welcome this opportunity to explain briefly the origins, status and goals of the United States-Japan Structural Impediments Initiative (SII). President Bush and Prime Minister Uno launched the SII last week by establishing a joint interagency working group. The President has designated the Departments of State and Treasury and the Office of U.S. Trade Representative as the tri-chairs on the U.S. side, while the Prime Minister has appointed the Ministries of Foreign Affairs, Finance and International Trade and Industry.

The purpose of the SII is to identify and solve structural problems in both countries that stand as the impediments to trade and balance of payments adjustment with the goal of contributing to the reduction of payments in balances. Our initiative emerged from the lessons learned from two recent economic policy experiences.

First, discussion of structural problems on a multilateral and bilateral basis is, of course, not new. Structural issues have been included on the agendas of economic summits since 1984, and were particularly highlighted in the 1988 Toronto summit's communique. Substantial attention has been given to structural issues by the OECD. The U.S. Government has undertaken in-depth studies on structural rigidities for several years. We have even opening statement previously engaged in a United States-Japan structural dialogue, to which you, Mr. Chairman, referred. However, we believe the approach we are using in the SII is a clear departure from past practices.

We learned from the previous structural dialogue that, although the exchange of information broadened our knowledge of Japan, it did not produce the structural adjustment needed to change Japan's economy. Our aim is to correct that weakness by explicitly designing the SII's purpose to be one not only of identifying problems, but most importantly, of accomplishing change through intensive sessions with the Japanese.

Second, discussions with Japan on ways to address balance of payments imbalances in both our economies is also not new. We have had successes in persuading the Japanese to take adjustment measures through the macroeconomic policy coordination process. There has been substantial adjustment as a result. For example,

their 1987 Economic Stimulus Program helped bring about 2 years of particularly strong Japanese domestic demand growth, and a drop in Japan's global trade surplus by nearly 13 percent in yen terms in 1988. Adjustment was also aided by the substantial appreciation of the yen since 1985. We also recognize and appreciate continuing efforts by Japan to open its markets and rely less on exports for growth. At the same time, the U.S. economy has also been adjusting.

These have been encouraging trends. But despite the changes in domestic demand patterns and the significant exchange rate realignment, the adjustment in payments imbalances has been less than adequate. Projections for 1989 suggest a return to a Japanese current account surplus of over \$80 billion and an end to the decline in the U.S. current account deficit. Meanwhile, the net effect of product-by-product trade negotiations on United States or Japanese trade imbalances has not been and cannot be expected to be anything but modest compared with the potential impact of macroeconomic policy changes.

As we surveyed the situation in the opening days of the Bush administration, we felt that the appropriate time had come to introduce a new United States-Japan initiative. This new initiative could be a creative way to reach our stated goals. It could solve structural problems affecting the United States and Japanese global trade and current account imbalances through a multi-step process. It could highlight deep rooted structural problems in the Japanese and U.S. economies that could not be addressed in traditional fora on trade and macroeconomic issues. Once these problems were pinpointed, practical solutions could be identified and a timetable put forward for their enactment.

When these ideas were discussed informally within the administration early this past spring, we found considerable interest on the part of others. We were later able to gain the agreement of the Japanese Government.

The origins of the SII framework stem from our experience over the past 5 years with Japan on both a bilateral and multilateral basis. We developed the format from the yen/dollar talks and the derivative Market Oriented Sector Specific (MOSS) Talks and applied it on a broader basis. These negotiations possessed a unique format for bilateral talks which we believe proved essential in successfully deregulating the Japanese financial markets and other specific economic sectors. However, the SII's aim is to address structural practices that cut across the Japanese economy, rather than those that are limited to a specific sector. For example, among the list of issues we have presented to the Japanese is their distribution system and exclusionary business practices. We will examine both of these problems across all sectors of the economy. Thus, the SII is considerably more complex and crosses a far greater range of bureaucratic jurisdictions than our earlier talks. It also includes the specific goal of contributing to a reduction in payment imbalances.

Although we cite the reduction of payments imbalances as a goal, the SII is not intended to replace macroeconomic policy coordination within the G-7. Other bilateral or multilateral efforts to reduce trade and current account imbalances, or to redress specific

trade restrictions, will continue in established fora. In sum, the SII is intended to complement those other efforts.

The SII framework we have agreed to within the administration and with the Japanese Government reflects the basic yen/dollar talks approach. Within the U.S. SII Working Group, we have agreed to commit extensive staff time to study intensively and further our detailed knowledge of the Japanese economy. We will be consulting with the private sector in conducting our research. We are proceeding with the awareness that many of the Japanese economic issues we address are domestically sensitive, while for others there is considerable domestic support for change in Japan. Among ourselves, we understand that full inter-agency cooperation is essential to our success. While each agency involved will have its own point of view on the SII, our goals of structural change are common.

In June we met with the Japanese and worked out a mutually agreed format and approach. This includes the essential concepts of flexibility and openness to ensure that we have the ability to allow the agenda to evolve as research proceeds. We have also agreed to subcommittee level meetings that will be held approximately every 2 months.

May I just finish?

Senator BAUCUS. How much longer do you have?

Mr. MULFORD. About another 30 seconds.

Senator BAUCUS. That is fine. Why don't you finish.

Mr. MULFORD. In recognition of the changing United States-Japan economic relationship, we have agreed to look at rigidities in both the U.S. and Japanese economies. Finally, as President Bush and Prime Minister Uno stated in their joint press statement of July 14, 1989, we are planning to release in the summer of 1990 the results of these talks in a joint final report to the heads of government. An interim assessment will be made public in the spring of 1990.

This internal and external SII approach is time-consuming and requires extensive commitments of staff across agencies in both countries. But I believe it is the only way to ensure that long-term changes are accomplished in Japan.

Thank you very much, Mr. Chairman.

Senator BAUCUS. Thank you, Mr. Secretary.

[The prepared statement of Mr. Mulford appears in the appendix.]

Ambassador Williams.

STATEMENT OF HON. S. LINN WILLIAMS, DEPUTY U.S. TRADE REPRESENTATIVE

Mr. WILLIAMS. With your permission, Senator, we have prepared a statement which I would like to submit for the record and simply to summarize that statement, perhaps add an additional thought or two if I may.

Senator BAUCUS. Ordinarily this committee allocates about 5 minutes per witness. But in this case, I have extended to 7½, 8 minutes—a little bit longer than usual.

In any event, the statements will automatically be included in the record. So you can proceed in any way that you wish.

Mr. WILLIAMS. All right. Thank you.

I would like to focus today, if I may, on the more trade-oriented aspects of the Structural Impediments Initiative by contrast to perhaps the broader economic aspects that the other Departments may focus more of their attention on.

The United States and Japan, as currently the two largest markets in the world, share a special responsibility for the health and growth of the global economy and trading system. The growth and current importance of Japan's market is particularly noteworthy and significant.

Until this decade, Japan had high formal trade barriers, which protected most of its economy from foreign competition and had government policies and practices that encouraged exports and domestic savings and discouraged imports and domestic consumption. The United States and Japan have worked together over the past few years to reduce Japan's formal trade barriers in many of those sectors and to coordinate macroeconomic policies that affect trade.

However, the failure of U.S. and other foreign goods to gain greater access to the Japanese market, despite the competitiveness in price and quality of those goods in other markets, and despite macroeconomic adjustments and the relative lack of formal trade barriers, leads us to conclude that there are structural factors in the Japanese economy that hamper imports and distort the economy. We believe there is both empirical and anecdotal evidence to support that proposition.

These observations suggest that there are some structural rigidities that create a domestic market in which foreign competition is substantially restricted. By reducing the level of competition, they raise prices and narrow the range of choice in the Japanese marketplace. These rigidities may or may not have been intended to inhibit imports. Many were probably intended to discipline domestic competition. They have, nonetheless, a particularly adverse affect on newcomers to the market, such as foreign companies and they result, of course, in a disproportionate effect on foreign companies.

Many of these structural factors have their origins in earlier government policies and practices, many are still supported by government policies and practices. These rigidities, unless addressed, will result in further aggravation of trade frictions. The effects of these rigidities are far too important to leave to dialogue. At the same time, they are not easily addressed—although they can be addressed—by the trade remedies that we sometimes apply to particular sectors. Hence, the trade origins of the genesis of this Structural Impediments Initiative, which the Japanese Government has agreed to join.

We have said before—and this committee has pointed out itself—that Japanese trade practices are not solely responsible for our overall trade deficit. We must look to macroeconomic factors as well. Japan is responsible, however, for access to its domestic markets. Put another way, although the bilateral trade deficit has perhaps fueled the political fire that causes us to address structural barriers at this point in time, we should be having this Structural

Impediments Initiative even if we had a surplus with Japan. Moreover, as the Japanese economy matures and the Japanese people themselves become more accustomed to their economic wealth, the Japanese themselves have begun to question these rigidities and their adverse effects on efficiencies in the domestic market and on the quality of life in Japan.

In addition to the co-chairs designated by the President, the Departments of Commerce, Agriculture, Justice, and Labor, and the President's Council of Economic Advisers form the U.S. "team" that will address these structural barriers. Japanese companies have benefited greatly by open access to foreign markets, especially the U.S. market. It is appropriate for those companies to play a central role in structural adjustments that will open the Japanese marketplace to foreign competition.

We firmly believe that only trade flows can solve trade issues. That means the Japanese market needs to pull in more imports. With Japan having the lowest manufactured good imports to GNP ratio in the developed world, major political problems are created by the continuing perception that the Japanese market is a very reluctant purchaser of foreign goods, particularly the producer and capital goods in which U.S. companies have a comparative advantage.

We recognize that the recent trend of Japanese imports is improving in terms of percentage of growth, but that is a percentage off a very small base. We believe the base should be broadened and deepened in both the corporate and consumer areas.

Our objective is change, change that will make the Japanese economy more accessible to foreign goods and services and to the participation of foreign investors. We consider the Structural Impediments Initiative to be an essential part of the overall U.S. trade policy towards Japan. It fits in an important part of the trade policy, somewhere between the G-7 coordination of such things as exchange rates and the individual 301 cases and other specific trade matters that the USTR is handling.

But all of these trade policies, including in particular this Structural Impediments Initiative, have the same focus and that is the primary focus of our trade policy—to open markets. That is our goal and that is what we shall use to assess our success as we proceed with the Structural Impediments Initiative.

Thank you.

Senator BAUCUS. Thank you, Mr. Ambassador.

[The prepared statement of Mr. Williams appears in the appendix.]

Senator BAUCUS. Secretary, you are next.

STATEMENT OF HON. RICHARD T. McCORMACK, UNDER SECRETARY FOR ECONOMIC AND AGRICULTURAL AFFAIRS, U.S. STATE DEPARTMENT

Mr. McCORMACK. Thank you very much, Senator.

The Structural Impediments Initiative is obviously of great potential importance to the continuing development of a healthy relationship between the United States and Japan. As you know, President Bush and Prime Minister Uno launched this initiative in

Paris last week. The purpose is to identify and solve structural problems in both countries that stand as impediments to trade and balance of payment adjustment. The goal is to reduce our payments imbalances.

The President and Prime Minister agreed to establish a joint inter-agency working group with tri-chairmen—State, Treasury, and USTR and for the Japanese the Ministries of Foreign Affairs, Finance, and International Trade and Industry. Talks will be held at the subcabinet level. The group will make an interim assessment in the spring of 1990 and will present a joint report within a year from the initiative's start in July 1989.

Over the past 40 years, Japanese and Americans have worked hard to develop a strong relationship—an alliance—between our two countries. The wisdom of this policy is clear. We have kept the peace in Northeast Asia for almost four decades and provided a stable environment for our peoples and our neighbors to thrive and prosper. Our economies have become closely integrated and, to a considerable extent, interdependent.

We have, however, certain problems with the Japanese, especially in the trade area. Foremost are the unsustainable trade imbalances which continue between our nations and the all too real impediments which hinder U.S. and other foreign firms trying to establish themselves on equal terms in the Japanese market.

We have tried various approaches to solving these problems over the past decades, as my colleagues have commented—negotiations on standards, the MOSS talks, structural dialogue, yen-dollar talks, to name but a few. These efforts have yielded some real results. U.S. exports to Japan have grown from \$28 billion in 1987 to \$38 billion in 1988. The trade deficit with Japan dropped from \$56 billion to \$52 billion in 1988. U.S. exports to Japan through May were \$18 billion, up from \$15 billion over the first 5 months of last year, although the cumulative trade deficit to date of about \$20 billion with Japan is running at about the same level as last year.

We appreciate the efforts which the Japanese Government is beginning to make in this area. Nevertheless, the overall trade surplus remains too high. There is a great deal of work that must be done in this area. For our part, we must balance our fiscal budget, increase savings and investment, and generally produce more competitive products. We have already made important progress in the past 5 years. We must, and will, also continue vigorous programs to promote U.S. exports and to provide U.S. firms with the support they need to do business in Japan. We will continue to work with the Japanese Government to remove systemic obstacles to trade, which, we believe, are hindering American exports to Japan.

The purpose of the SII talks is to address structural impediments which are rooted in regulations, laws and business practices in the Japanese economy. In the past, we have focused on specific issues such as beef or oranges, or on specific sectors as in the MOSS talks. The SII talks, however, will focus on structural impediments which hinder the process of economic adjustment and which make unnecessarily difficult and expensive normal activities by foreign firms wishing to do business there. We must also work to create a program of cooperative action to increase the access of competitive goods to the Japanese market.

The SII process will be dynamic. We have identified a number of areas in Japan that we would like to focus on initially, including the distribution system and price mechanisms.

Japanese consumers and businessmen are rightly puzzled why foreign products remain expensive and relatively speaking hard to come by when the yen is so strong. They also wonder why some Japanese products are cheaper in New York than Tokyo.

Clearly, the market is not working as it should for the benefit of the Japanese man and woman in the street. We note, for instance, Japan's Ministry of International Trade and Industry recently published a "Distribution Vision" with many imaginative proposals for making the system more responsive to market mechanisms in general, including more open to imports. The Japanese themselves have acknowledged that change is—and should be—taking place. We wish to accelerate or, if necessary, strongly encourage such changes in areas of importance to U.S. business and to the United States-Japanese balance of trade.

As we move along, other areas of concern may arise on either side. We and the Government of Japan have agreed that this process should be open-ended. We will take up new problems and aim at new solutions as we learn more during the next year.

We have an historic opportunity before us. The purpose of the Structural Impediments Initiative is to encourage market mechanisms to function efficiently in both nations. This effort should be problem-solving and solution-oriented. The goal is to make the system work better for the benefit of Japanese and Americans alike. We in the administration welcome your suggestions and those of your colleagues in the House to improve the process and produce meaningful results.

Thank you very much.

Senator BAUCUS. Thank you, Secretary.

[The prepared statement of Mr. McCormack appears in the appendix.]

Senator BAUCUS. I think in order to make this work it is important to know as much as possible up front as to what each of your three responsibilities are going to be. That is, what areas you are going to focus on, Ambassador Williams; which area, you, Secretary Mulford are going to focus on; and which areas the State Department, particularly, Secretary McCormack, is going to work on. That is, we need to know this so you are not working at cross purposes and so that this committee knows where we are and how we can help you accomplish your goals.

So, first, Mr. Williams, could you tell us what you see your responsibilities are and then the same question applies to the other two witnesses?

Mr. WILLIAMS. Yes, Senator.

I should start by saying that the three co-chair agencies share responsibility for all of the issues and that is a responsibility I think we all take seriously. We also include in all of the deliberations the Department of Commerce and the CEA. Other members of the SII are involved as the issues may arise in their areas. So there is a great deal of interagency coordination.

The reason I emphasize that is because, as Secretary Mulford pointed out, flexibility and openness is an important part of this

initiative. Of the areas that we have identified, there is overlap. In some cases, considerable overlap. It is important that we remain sufficiently coordinated and flexible to resolve those matters.

In specific answer to your question about the USTR, we shall focus our attention on those areas with respect to which our experience would enable us to provide, I think, the greatest value; and in particular, the two that focus most closely on trade matters as we see them—exclusionary business practices and the distribution system.

We have divided up among ourselves each of the structural impediments areas as we see them and have assigned, again among ourselves, a lead agency and a second lead agency to have primary responsibility to the group to prepare the issues. It is those two issues on which USTR will be focusing its attention. But not to the exclusion of the other areas.

Senator BAUCUS. Okay.

Secretary Mulford.

Mr. MULFORD. I first of all would like to support what was just said of a general nature about the shared responsibility for the entire negotiation. I think it is very important that we approach this together, that we look at these issues strategically and tactically as a group and then we go on to specialize in the areas that involve research by our individual agencies.

In the case of the Treasury, we will take a lead on the saving and investment patterns issue, working with the CEA. In the case of land use, which involves a number of financial and tax issues, we will work with State, which will have the lead on that issue. And finally, on the financial "keiretsu" issue, the matter of interrelations which exist among groups of companies in Japan, we will take the lead.

Senator BAUCUS. Thank you.

Secretary McCormack.

Mr. MCCORMACK. I share the comments of my colleagues here and say that the State Department will be focusing as the lead agency on the distribution system, and as David said on the land use area, and we will be working with the Commerce Department on price mechanisms.

Senator BAUCUS. It also is important to quantify our goals. I know that when the United States was negotiating with Japan over reduction and the phase-out of beef quotas our negotiators finally reached a break through when they realized that if they could quantify all this they could then talk in terms that both sides easily understood and, therefore, reached an agreement.

Could you tell the committee now how you are quantifying the goals? What are your objectives and how are we going to know whether we have reached the objectives or not? My personal view, that is going to involve some quantification. We have to have some numbers behind the goals. I am curious as to how you see your results and in your view how you know whether you have reached your goals or not.

Mr. WILLIAMS. It is going to be difficult I think, Senator, to quantify these particular objectives. Within the objectives there are specific matters that might be subject to quantification, which we have done and will continue to do in the Super 301 areas. But by

and large, when one looks at structural change in, for example, exclusionary business practices or the distribution system, it is awfully difficult to put a number on it in general terms and even more difficult to put a number on it as it would apply to U.S. products.

To some extent there is research available by Japanese agencies, where there has been a recognition of some of these impediments, that may help us in matters such as the pricing mechanism and the distribution system. But the quantification is a bit down the line and in some of these areas, frankly, difficult to get a handle on.

Senator BAUCUS. I understand it is difficult. My time is up. But I encourage all of you, as best you possibly can, to quantify your objectives and give yourself benchmarks to help you know whether or not you succeed in obtaining those objectives. Otherwise, I fear that there are going to be a lot of words spoken—a lot of talk—and we may not get a lot of action.

Senator Danforth.

Senator DANFORTH. Mr. Chairman, thank you very much.

Gentlemen, I am going to tell you what concerns me and then ask you if you can reassure me. When I heard that we were going to engage in these so-called structural talks with Japan I thought that was a great idea, because we have to deal with our trade problems, not only as specific issues but in general terms as well.

When I heard that not only USTR was going to captain this team, but that the State and Treasury were to be co-captains, frankly, my heart sank. My expectations were jolted. I think that when we deal with Japan the Japanese hear what they want to hear. It is sometimes very hard to make an impression on them even with a single voice. If they hear voices that are not in harmony, that are giving different messages, they will immediately accept as the American position that view which is most in keeping with their own view of the world.

That is what concerns me. It has been well known that within our government, not only with this administration, but as far back as I can remember in my own history in dealing with trade issues, the administration has been divided in its view of trade. Commerce traditionally has a fairly tough view of trade matters. USTR does. The State Department has been notorious as far as we are concerned for viewing our trade problems as strictly our own fault and for considering trade as the last thing on our agenda. They have said, "let us never push the trade issue," including as a matter of fact, identifying countries on the Super 301 list. "Let us never push it. Let us finesse it. Let us find some way to forget that the statute exists because we really do not want to offend anybody." State's approach traditionally has been to say, "We really want to tell ourselves that if there is a problem, it has to be America's fault. Because if we ever point the finger at anybody other than ourselves, they might get angry and it might be bad for our overall relations."

So the issue within not only this administration, but in past administrations, is how much emphasis is to be given to the commercial interests of the United States, or, conversely, to what extent are commercial interests to be downplayed for the sake of foreign policy objectives, national defense objectives and so forth.

I am concerned, Secretary McCormack, that the traditional view of the State Department—and also, Mr. Mulford, at times of the Treasury Department—is that the tendency is, oh, we understand. I mean there are cultural reasons why you never want to buy anything and we do not want to push you too hard.

My view, of course, is that the trade imbalance between these two countries, and the trade practices of Japan are a very serious impediment to overall relations between our two countries—that it is difficult, if not impossible, to have truly close relations if the American people believe that they are being taken advantage of by a country that purports to be our friend.

So I share with you my concern and ask you if maybe somehow you can allay that concern. I see Japan listening very carefully, trying to hear what it wants to hear. I see USTR and Commerce, if they are going to be part of this, saying one thing; and I see State and certainly the Council of Economic Advisors, basically taking the position that what we mean by “free trade” is that our market should be open, period.

If you could tell me I am all wet. I would love to hear it.

Mr. McCORMACK. Thank you. I have been engaged myself in a number of discussions with the Japanese involving inter-agency groups in the time that I have been Under Secretary. Mr. Williams has been a participant of these groups. Mr. Mulford has been involved in some of them also. I think you will find from my colleagues in the other agencies that the U.S. Government is speaking with a single voice on these issues.

It is absolutely clear to all of us that the trade deficit between the United States and Japan is absolutely unsustainable, that there have to be major changes in this sort of thing, and that this Structural Impediments Initiative is one of the ways that can lead to that and we are all working on this to make this occur.

We all recognize that it is going to take time to make some of these profound and fundamental changes. You can think how long it took in the United States to get some of the changes that we have had in our retail and wholesale system—on our Fair Pricing Act, on our contracting practices in individual cities in the United States.

It is not easy for any society to make these basic changes. But we all recognize they are absolutely central to changing the balance of trade between the United States and Japan and we are all committed to trying to make this work.

Mr. MULFORD. If I could just take a moment in answering your question. First of all, I would like to draw your attention to three areas in which I have been individually involved for the last 5 years at Treasury, and in which in each case we have been extremely tough and accomplished important things.

First, there is the macro area with Japan, I have already referred to important results achieved there which have impacted adjustment positively since 1987.

Secondly, I chaired and still chair the yen-dollar talks between the United States and Japan. In my opinion—but you should certainly check elsewhere or I would be quite happy to come up and spend time with you explaining in detail why I feel this way—I think this has been the most successful set of talks with Japan, bar

none in the world, viewed from the standpoint of the changes that have been wrought in Japan in its capital markets, access to those markets, and the use of the yen worldwide, compared to any other set of talks—trade or macroeconomic.

And finally, during the course of the MOSS talks I chaired the pharmaceutical group working with USTR and I think in general the outcome there was judged to have been positive. Personally, I think the U.S. market should stay open. I think that is good for the American people. But I do not believe that means that you do not and cannot be tough with other countries on trade issues. I think you will find my own reputation in Japan to be one of fairly considerable toughness.

Senator DANFORTH. Mr. Chairman, thank you very much.

Senator BAUCUS. Senator Heinz.

Senator HEINZ. Mr. Chairman, thank you.

All of you are aiming in the various so-called rigidities that you are talking about at things that are certainly theoretically plausible targets for negotiations. We have had previously a lot of other probably even more plausible targets for negotiations. We have had over the last 9 years 9 reform packages from Japan in response to a constant drum beat of targeting of various Japanese practices, including a lot of market access ones. And certainly, on market access 5 or 10 years ago we thought, well, if we just get market access we are going to be in good shape.

And, of course, the macroeconomics have resolved themselves very favorably towards us over the last 5 or 6 years, the Japanese yen has appreciated nearly 100 percent; the dollar has fallen by 50 percent—our budget deficit as a percentage of GNP is less than half of what it was several years ago, which changes by the way have had dramatic impact with virtually all the rest of our trading partners, to the point that even the debt burdened LDCs have much reduced their trade surpluses with us. We have much reduced deficits with them.

And low and behold, we are running a surplus with the European Economic Community. Whereas, as few years ago we had a substantial deficit. But with Japan our trade deficit has not only remained high but as we just saw yesterday, it has gone up. It is likely to go up more.

That suggests to me that even when we have plausible targets, such as market access it does not necessarily achieve the results you say you want to achieve because each of you decried the unsustainability of the existing trade deficit that we have with Japan.

Now, the first of two questions to you is this: Let us assume you have what you consider a successful negotiation. You have gotten everything you asked for in terms of savings, and investment, and price reforms, and shortening the distribution system, and differences in land use planning, and exclusionary business practices—whatever those are—have been outlawed, financial “keiretsu” have disappeared from view. But the trade deficit in spite of favorable macroeconomics is still where it is today.

My question is: Will you consider your negotiations a success? Mr. Mulford, what's the answer to that question?

Mr. MULFORD. The answer to that question is obviously, that I would not regard us as very successful if immediately following

these talks the trade figures did not improve. But I also would add that I think the kinds of things we are addressing, as we saw already in certain areas, take time to produce changes. So I would look for that change in the figures not immediately, but over a period of time.

Senator HEINZ. So regardless of your success, you are saying we may not see it for a long time?

Mr. MULFORD. We may not see an immediate reflection of success within a period of sort of 6 to 12 months after we have concluded the talks. But I would think if you look over a period of 1 to 5 years you should see considerable change. I would judge it on that basis.

Senator HEINZ. Well, let me ask you this: In 1987 following on the heels of a dumping case involving semiconductors, we entered into a semiconductor agreement with the Japanese Government which is very clear. It says that by 1991, the U.S. producers will have a 20 percent share of the Japanese semiconductor market. That was 2 years. It has been an issue. Linn Williams is not unfamiliar with it. We are still at exactly where we were 2 years ago—about 10 percent.

Now if that is our experience there, why should we expect any other kind of experience—this is as specific as you can get; this is as concrete as can be; this is on paper; this involves government to government agreements—if we can get that kind of specificity and hard case agreement and still see no result, how would you rate your chances of getting any result that is worth getting?

Mr. MULFORD. I think our changes are good to get some result. I think the hard part of this will be, first of all, to know whether the negotiations that we ultimately focus on are really dealing with the issues that will in the end make for an improvement in results. I do not think you can be sure of that in every single case when you are negotiating these types of issues.

Obviously, what you look for is the overall change that you can induce in Japan. That is why I think, in answer to a question asked by the Chairman earlier, I think to put this in specific numerical terms is not only very difficult but might not be the best basis on which to make the judgment in the near term.

Senator HEINZ. Mr. Mulford, thank you. My time has expired. I will wait for a second round because I do have one other line of inquiry I want to pursue.

Senator BAUCUS. I have a couple questions of, first, Mr. McCormack. To what degree is the pricing system and distribution system in Japan an impediment to trade? And to what degree is that a component of our imbalance of trade, in your judgment?

Mr. McCORMACK. Let us talk about the distribution system. In Japan you have a distribution system that is very much tied to individual producers. In other words, people have franchisers and local stores tend to sell what they produce, what their specific suppliers provide them. They are reluctant in some cases to take on the goods that come from other producers, whether they are foreign or domestic. There is a very close relationship between these producers and the distributors that involves a whole series of discounts and incentives and various incendiary other things, that tend to keep these distributors locked in to want—

Senator BAUCUS. We know the problem. That is not the question I asked. The question I asked is: How much of a problem is it? And second, in your judgment, how has that affected our imbalance of trade?

Mr. McCORMACK. It is difficult to make a specific quantitative answer to your question. But I can just say in general, if you cannot get your goods to the customer, whether it is an American orange or whether it is some beef from the West or whether it is another product produced by the United States, you cannot sell it. We have got to encourage the Japanese to open up that distribution system to make it possible for us to get our goods before the consumer.

It is ridiculous to have cases where you actually have Japanese goods cheaper in New York than they are in Tokyo. That is part of the distribution system problem. This has got to be changed; it has got to be opened up. It is in the interest of the Japanese people to do it. I am told they are grumbling and not happy over the fact that they are having to pay more for a camera in Tokyo than they would if they were traveling abroad and bought it in New York. It is ridiculous. It is absurd. The Japanese people have an interest in this process as well.

Furthermore, the Japanese understand that this trade imbalance is absolutely unsustainable and it is as much their problem as it is ours because the trading system cannot continue to function as it is now unless the system gets put more in balance. So they have got to find ways of getting this thing put in more balance and part of that is going to involve enabling foreign producers to get their goods before the Japanese consumer in a competitive way.

Senator BAUCUS. As you all know, there is a time table under Super 301. Next year there are certain deadlines. It would be helpful to this committee if we could get some interim reports as to the status of your efforts before those deadlines fall into place because what this committee does or does not do with respect to the SII and other matters will depend in part upon how well along the SII is moving.

I would ask the three of you to inform this committee sufficiently in advance of those dates next year so that we could take appropriate action.

Senator BAUCUS. I also want to do something else. I want to give each of you a present. It is a bit unusual for this committee. Our USTR Ambassador, Carla Hills, when she was before this committee at her confirmation hearing said that she is going to use a crow bar. And as you well know, there have been many references to that crow bar subsequent to that confirmation hearing. I would give you each a lapel pin which is a crow bar.

I am going to send you off on your efforts here as our negotiators, armed each with a crow bar to help you meet your objectives. I am going to give it to you right now.

Mr. WILLIAMS. Senator, it will not surprise you to know I already have one, but I would appreciate another one. [Laughter.]

[Whereupon, Senator Baucus handed a pin to Messrs. Mulford, Williams, and McCormack.]

Senator BAUCUS. Okay. I want to see those on now. [Laughter.]

Mr. McCORMACK. We are wondering which part of our anatomy you expect us to have these.

Senator BAUCUS. The most visible and wear them proudly. I see Secretary Mulford has his on; Ambassador Williams has his on.

Now you want to allay the fears of Senator Danforth don't you, Secretary McCormack?

Mr. McCORMACK. We will see we have these on for every negotiating session.

Senator BAUCUS. All right. Good.

Senator Danforth.

Senator HEINZ. I didn't know the Chairman was in the power of the crow bar lobby.

Senator DANFORTH. I do not have any questions. My present is that I am going to give you is some ground glass to eat every morning for breakfast. [Laughter.]

Senator HEINZ. I want to compliment the Chairman on an excellent gift to our negotiators, but I think they may need more than that.

At the beginning of my line of inquiry I used the term plausible target for your attention in negotiations advisedly because I am concerned that, in fact, we may in looking at the problem we face be misdiagnosing the problem. The problem, as I see it, is that we mistake the type of economy that Japan is. We assume, because they are a capitalist economy, where the government does not set transaction prices, that they are a kind of free market, capitalist economy. When, in effect, while what I have just said about the Japanese economy is true, they are in fact a State influenced economy of a totally different kind than we have ever seen on the face of this earth and in a wonderfully—in their terms—an objectively successful one.

They are, as one of our more noted Asian scholars Chalmers Johnson has called them, a capitalist developmental state, where the government does not displace the market as in the case of a socialist economy, but is an active player in the market, where in effect the government provides affirmative action for its enterprises in a variety of fields. That is what they did in television, consumer electronics, video recorders, machine tools, semiconductors. They are doing it, of course, in super computers. They are trying to do it in HD-TV, fiber optics, superconductors and commercial aerospace. That is a partial list.

Now if, in fact, the secret of Japanese success is that their ministries get in there and first develop a market for Japanese products—and by the way, their ministries in that regard are no different from any U.S. agency. I have not seen a U.S. agency that is interested in helping Japanese companies dominate U.S. business. We should not expect Japanese ministries to help Americans enter into Japan, except for cosmetics purposes perhaps. But one thing American agencies obviously do not do is, they do not go out and create markets.

The postal service, which is kind of our wishy-washy equivalent of the Japanese ministry of posts and telegraphs, does not call up the 13 biggest cities in America, like they do in Japan, and say you are going to buy high definition television sets until we get the

price down so that we have a price advantage that nobody else in the world can match.

My question to you is this: You are aiming at all these plausible targets, but the real problem may be the role of the Japanese ministries in aggressively creating markets and market opportunities and supplying a lot of very valuable things to groups of companies with the understanding that this is for Japanese companies, not for other people. The same way as Sematech is for American companies. It is not for Korean or West German or Japanese or anybody else to participate in.

So my question is—let me start with Mr. Williams this time—to what extent is what I have described in the way of the Japanese ministerial intervention in the economy largely correct? And secondly, if it is correct, why is that not on the agenda instead of what is on the agenda as you have described it?

Mr. WILLIAMS. Your description, I think, Senator, is largely correct. I have read Chalmers Johnson's article—the article to which you, I expect, were referring. In his analysis of the general approach of the Japanese Government, I think that Chalmers Johnson was actually making an additional point, which makes the issue more, not less, difficult, but shifts the attention a bit away from the Japanese Government. I think he is saying that the Japanese Government for a period of time did manage the Japanese economy to a great extent.

He is also saying, I believe, that its ability to deliver the goods now, as it were, is much more limited. He considers that—

Senator HEINZ. I think he is saying that about MITI.

Mr. WILLIAMS. He is saying that about MITI, but I think MITI has more authority over the manufacturing companies than any other government agency. I think the Ministry of Finance probably exercises the greatest degree of the control now of all the ministries. But the number and kinds of companies over which it exercises control is more limited, largely financial institutions.

That does not solve the problem though. Because what has happened is that the policies—

Senator HEINZ. The problem is worse than I described it.

Mr. WILLIAMS. The policies that set this in motion may have now become business practices, in some cases business practices that the Japanese Government now might wish to change but finds it difficult to change because of the policies that set them in motion in the first place.

I do not at all minimize your description of the problem or your concern, but the Structural Impediments Initiative does concern the broad issue of past and present Japanese Government and involvement in the economy in several areas. Pricing is one; distribution system is a second; and exclusionary business practices is a third.

Exclusionary business practices is but one example. It is an area in which we believe more and more Japanese are becoming interested. Actually, there are Japanese constituencies developing in each of these areas, and I should not limit that phenomenon to exclusionary business practices. There have been reports to and by the Japanese Fair Trade Commission; there have been reports to and by MITI and the Japanese Economic Planning Agency; and

even business groups such as the Keidanren—the leading business group—are criticizing and looking for changes in pricing mechanisms, distribution system and exclusionary business practices, focusing on the anti-monopoly practices, but not exclusively.

All of those are a focus of the Structural Impediments Initiative. I cannot tell you whether the initiative is going to work. I wish I could. I can tell you, though, that we did have your problems in mind when we set our overall objectives, and we shall have your problems in mind when we address them in the specifics.

Senator HEINZ. Let us assume that you have conceptualized the problem, that somehow you are going to attack the kinds of issues we have been talking about. But that in spite of every kind of assurance you can get, the Japanese Government, perhaps in part because the Japanese Government can no longer deliver the goods, has lost control. I mean there are people like Van Wolferen who say Japan's Government does not have the ability to govern, and, therefore, it is beyond the control of whoever claims to be in political power. There is no real change. Notwithstanding a lot of good will and effort, we still have this debilitating, huge, unsustainable trade deficit. Then what do we do?

Mr. WILLIAMS. The focus that we are placing in many of these structural impediments areas, if you look at them closely, is largely on price. I think, both as a theoretical matter and as a practical matter, that, if we are able to exercise sufficient pressure on price, and if, as we hope is the case, there are Japanese constituencies that, as Secretary McCormack pointed out, themselves are concerned about price and quality of living in Japan, we will see improvement in both the trade and the current accounts areas because the resistance of Japanese companies to changes in price—lower price—is not shared by Japanese consumers.

If you look at the individual areas we have dealt with, we have been much more successful where we had a consumer at the end of the line than a company.

Senator HEINZ. Linn, if I may interrupt you at this point. That may well be. But our biggest problems in terms of our high value added industries are related to the fact that we do not have any consumer electronics industry, which is high valued added, to compete with the Japanese on price. It is all over there.

Yes, if we could get Levis or Reeboks in at market prices we might be terribly successful. But I would hate to go back and tell a noted group of economists that the United States is now an economic power because we were able to sell Reeboks made in Singapore or Levis made in Hong Kong in Japan. I am concerned about the sales of the kind of higher value added items, whether it is a very high value added item like a super computer or a much cheaper, but high value added item like an integrated circuit and all the other kinds of technologies that we all define as the technologies of the future.

I am reminded that in the Japanese construction industry, where because of the Kansai airport, the previous administration exerted enormous amounts of time and effort and spent vast quantities of political capital because American firms were just being cut out of the bidding process for the Kansai airport.

What we have achieved is as follows: American firms will now be licensed to bid on various elements of that airport. But, when the bids are opened by the—whatever the construction ministry is—the price is not going to make any difference. There is an agreement to share the market, mainly among, you know, the people who have been there all along.

I must tell you, I salute you for your candor and I guess optimism. But I have to say that I am skeptical, and I would really like to get back to a more direct answer to the question I asked, which is, if this does not work, isn't the only remaining alternative to have what Henry Kissinger, Cyrus Vance, myself and others have called, results, bottom line oriented trade—which means, numbers each year that have been negotiated, tough negotiations, but nonetheless negotiations that result in annual decrements of the deficit one way or another.

Senator BAUCUS. When you answer the question, keep it very short. There is a roll call going on now. If you could hold your response, please, to a total of about one minute.

Senator HEINZ. Let me start with Dick McCormack.

Mr. McCORMACK. Senator, I am very reluctant to go in that direction. I hope we will not have to. We worked for 40 years to build a multilateral trading system. It is working in most places. We have a big problem with the newly industrialized economies and with Japan. My hope is that we can persuade them to modify those practices because I think they, themselves, realize that they have the biggest stake in the world in maintaining an open multilateral trading system. Unless Japan and these countries can make some changes in their economic relationships they recognize that the world trading system is going to be jeopardized.

So my hope is we never have to face that issue.

Senator HEINZ. Well, why is it going to be jeopardized? You just said we are going to keep our markets open irrespective of whether we get results or not.

Mr. McCORMACK. The Japanese are not just listening to me, Senator; they are listening to you and they recognize the political climate in this country is changing fundamentally. They recognize that unless there is some basic changes in those numbers, between the United States and Japan on our trade, that that multilateral trading system of which they are the biggest beneficiary is in mortal danger.

Senator HEINZ. They do not believe you.

Mr. McCORMACK. They believe you, Senator.

Senator HEINZ. Yes. And they know that there is an administration that has a divided opinion of which you are a part.

Mr. McCORMACK. They also know that the constitutional authority for trade policy resides in the Congress of the United States.

Senator BAUCUS. Gentlemen, I think this conversation demonstrates that you all have an extraordinary difficult challenge ahead of you. You have the full support of this committee. Albeit, there may be some skepticism from some members of this committee, but you have the full support of this committee to accomplish your objectives.

This is an extraordinary time. You have an extraordinary challenge. It is an extraordinary opportunity. This committee wants to

work, and will work, very closely with you and help you to accomplish your objectives. We hope to find a successful result when we revisit this issue with the three of you at some later date.

But again, go to it. Work hard. You have our support and good luck. The hearing is adjourned.

[Whereupon, the hearing was adjourned at 3:17 p.m.]

APPENDIX

ALPHABETICAL LISTING AND MATERIAL SUBMITTED

PREPARED STATEMENT OF RICHARD MCCORMACK

I would like to comment briefly on the importance of the Structural Impediments Initiative to the continuing development of a healthy relationship between the United States and Japan. As you know, President Bush and Prime Minister Uno launched this initiative in Paris. The purpose is to identify and solve structural problems in both countries that stand as impediments to trade and balance of payment adjustment. The goal is to reduce oil payments imbalances.

The President and Prime Minister agreed to establish a joint interagency working group with tri-chairmen—State, Treasury, and USTR, in our case, and, for the Japanese, the Ministries of Foreign Affairs, Finance, and International Trade and Industry. Talks will be held at the subcabinet level. The group will make an interim assessment in the spring of 1990 and will present a joint report within a year from the Initiative's start in July 1989.

Over the past forty years, Japanese and Americans have worked very hard to develop a strong relationship—an alliance—between our two countries. The wisdom of this policy is clear. We have kept the peace in Northeast Asia for almost four decades and provided a stable environment for our peoples and our neighbors to thrive and prosper. Our economies have become closely integrated and, to a considerable extent, interdependent.

We have, however, certain problems with the Japanese, especially in the trade area. Foremost are the unsustainable trade imbalances which continue between our nations and the all too real impediments which hinder US and other foreign firms trying to establish themselves on equal terms in the Japanese market.

We have tried various approaches to solving these problems over the past decades—negotiations on standards, the MOSS talks, Structural Dialogue, Yen-Dollar talks, to name but a few. These efforts have yielded real results. US exports to Japan have grown from \$28 billion in 1987 to about \$38 billion in 1988. The trade deficit with Japan dropped from \$56 Billion to \$52 billion. US exports to Japan through May were \$18 billion, up from \$15 billion over the first five months of last year, although the cumulative trade deficit to date of about \$20 billion with Japan is running about the same as last year.

We appreciate the efforts which the Japanese government is making in this area. Nevertheless, the over-all trade surplus remains too high. There is a great deal of work that must be done in this area. For our part, we must balance our fiscal budget, increase savings and investment, and generally produce more competitive products. We have already made important progress in the past five years. We must—and will—also continue vigorous programs to promote US exports to provide US firms with the support they need to do business in Japan. And we will continue to work with the Japanese government to remove systemic obstacles to trade, which, we believe, are hindering American exports to Japan.

The purpose of the SII talks is to address structural impediments which are rooted in regulations, laws, and business practices in the Japanese economy. In the past, we have focused on specific issues such as beef or oranges, or on particular sectors as in the MOSS (Market-Oriented Sector-Selective) talks. The SII talks, however, will focus on structural impediments which hinder the process of economic adjustment and which make unnecessarily difficult and expensive normal activities by foreign firms wishing to do business there. We must also work to create a program of cooperative action to increase the access of competitive goods to the Japanese market.

The SII process will be dynamic. We have identified six areas in Japan which we would like to focus on initially: savings and investment, price mechanisms, distribution system reforms, land-use policies, exclusionary business practices and financial "keiretsu."

None of these problems are new to the Japanese. All of these areas have been identified as of particular concern for balanced economic growth. Japanese consumers and businessmen are rightly puzzled why foreign products remain expensive and, relatively speaking, hard to come by, when the yen is so strong. They also wonder why some Japanese products are cheaper in New York than Tokyo.

Clearly, the market is not working as it should for the benefit of the Japanese man and woman in the street. We note, for instance, that Japan's Ministry of International Trade and Industry recently published a "Distribution Vision" with many imaginative proposals for making the system more responsive to market mechanisms in general, including more open to imports. The Japanese have themselves acknowledged that change is—and should be—taking place. We wish to accelerate or, if necessary, to induce such changes in areas of importance to U.S. business and to the US-Japanese balance of trade.

As we move along, other areas of concern may arise on either side. We and the Government of Japan have agreed that this process should be open-ended. We will take up new problems and aim at new solutions as we learn more during the next year.

We have an historic opportunity before us. The purpose of the Structural Impediments Initiative is to encourage market mechanisms to function efficiently in both nations. This effort should be problem-solving and solution-oriented. The goal is to make the system work better for the benefit of Japanese and Americans alike. We in the Administration welcome your suggestions and ideas and those of your colleagues in the House to improve the process and produce meaningful results.

PREPARED STATEMENT OF DAVID C. MULFORD

Mr. Chairman and Members of the Committee, I welcome this opportunity to explain briefly the origins, status and goals of the U.S.-Japan Structural Impediments Initiative (SII). President Bush and Prime Minister Uno launched the SII last week by establishing a joint interagency working group. The President has designated the Departments of State and Treasury and the Office of the U.S. Trade Representative as tri-chairs on the U.S. side, while the Prime Minister has appointed the Ministries of Foreign Affairs, Finance and International Trade and Industry.

STRUCTURAL IMPEDIMENTS INITIATIVE GOALS

The purpose of the SII is to identify and solve structural problems in both countries that stand as impediments to trade and balance of payments adjustment with the goal of contributing to the reduction of payments imbalances. Our initiative emerged from the lessons learned from two recent economic policy experiences.

First, discussion of structural problems on a multilateral and bilateral basis is, of course, not new. Structural issues have been included on the agendas of Economic Summits since 1984, and were particularly highlighted in the 1988 Toronto Summit's Communique. Substantial attention has been given to structural issues by the OECD. The U.S. Government has undertaken in-depth studies on structural rigidities for several years. We have even previously engaged in a U.S.-Japan Structural Dialogue. However, we believe the approach we are using in the SII is a clear departure from past practices.

We learned from the previous Structural Dialogue that, although the exchange of information broadened our knowledge of Japan, it did not produce the structural adjustment needed to change Japan's economy. Our aim is to correct that weakness by explicitly designing the SII's purpose to be one not only of identifying problems, but most importantly, of accomplishing *change* through intensive sessions with the Japanese.

Second, discussion with Japan on ways to address balance of payments imbalances in both our economies is also not new. We have had success in persuading the Japanese to take adjustment measures through the macroeconomic policy coordination process. There has been substantial adjustment as a result. For example, their 1987 Economic Stimulus Program helped bring about two years of particularly strong Japanese domestic demand growth, and a drop in Japan's global trade surplus by nearly 13 percent in yen terms in 1988. Adjustment was also aided by the substantial appreciation of the yen since 1985. We also recognize and appreciate continuing

efforts by Japan to open its markets and rely less on exports for growth. At the same time, the U.S. economy has also been adjusting.

These have been encouraging trends. But despite the changes in domestic demand patterns and the significant exchange rate realignment, the adjustment in payments imbalances has been less than adequate. Projections for 1989 suggest a return to a Japanese current account surplus of over \$80 billion and an end to the decline in the U.S. current account deficit. Meanwhile, the net effect of product-by-product trade negotiations on U.S. or Japanese trade imbalances has not been and cannot be expected to be anything but modest compared with the potential impact of macroeconomic policy changes.

STRUCTURAL IMPEDIMENTS INITIATIVE: ORIGINS

As we surveyed the situation in the opening days of the Bush Administration, we felt that the appropriate time had come to introduce a new U.S.-Japan initiative. This new initiative could be a creative way to reach our stated goals. It could solve structural problems affecting the U.S. and Japanese global trade and current account imbalances through a multi-step process. It could highlight deep rooted structural problems in the Japanese and U.S. economies that could not be addressed in traditional fora on trade and macroeconomic issues. Once pinpointing these problems, practical solutions could be identified and a timetable put forward for their enactment.

When these ideas were discussed informally within the Administration early this past spring, we found considerable interest on the part of others. We were later able to gain the agreement of the Japanese government.

The origins of the SII framework stem from our experience over the past five years with Japan on both a bilateral and multilateral basis. We developed the format from the Yen/Dollar Talks and the derivative Market oriented Sector Specific (MOSS) Talks and applied it on a broader basis. These negotiations possessed a unique format for bilateral talks which we believe proved essential in successfully deregulating the Japanese financial markets and other specific economic sectors. However, the SII's aim is to address structural practices that cut across the Japanese economy, rather than those that are limited to a specific sector. For example, among the list of issues we have presented to the Japanese is their distribution system and exclusionary business practices. We will examine both of these problems across all sectors of the economy. Thus, the SII is considerably more complex and crosses a far greater range of bureaucratic jurisdictions than our earlier talks. It also includes the specific goal of contributing to a reduction in payments imbalances.

Although we cite reduction of payments imbalances as a goal, the SII is not intended to replace macroeconomic policy coordination within the G-7. Other bilateral or multilateral efforts to reduce trade and current account imbalances, or to redress specific trade restrictions, will continue in established fora. In sum, the SII is intended to complement those other efforts.

STRUCTURAL IMPEDIMENTS INITIATIVE: CURRENT STATUS

The SII framework we have agreed to within the Administration and with the Japanese Government reflects the basic Yen/Dollar Talks approach. Within the U.S. SII Working Group, we have agreed to commit extensive staff time to study intensively and further our detailed knowledge of the Japanese economy. We will be consulting with the private sector in conducting our research. We are proceeding with the awareness that many of the Japanese economic issues we address are domestically sensitive, while for others there is considerable domestic support for change in Japan. Among ourselves, we understand that full inter-agency cooperation is essential to our success. While each agency involved will have its own point of view on the SII, our goals of structural change are common.

In June we met with the Japanese and worked out a mutually agreed format and approach. This includes the essential concepts of flexibility and openness to ensure that we have the ability to allow the agenda to evolve as research proceeds. We have also agreed to subcommittee level meetings that will be held approximately every two months. In recognition of the changing U.S.-Japan economic relationship, we have agreed to look at rigidities in both the U.S. and Japanese economies. Finally, as President Bush and Prime Minister Uno stated in their joint press statement of July 14, we are planning to release in the summer of 1990 the results of these talks in a joint final report to the Heads of Government. An interim assessment will be made public in the spring of 1990.

This internal and external SII approach is time-consuming and requires extensive commitments of staff across agencies in both countries. But I believe it is the only way to ensure that long-term changes are accomplished in Japan.

Before I yield to my colleagues, I would like to add that I have often advocated the need for increasingly greater U.S. and Japanese economic cooperation. I have also spoken in favor of a more thoughtful, ordered approach to U.S.-Japanese economic relations. I believe the SII will prove to be fully consistent with both these aims.

PREPARED STATEMENT OF S. LINN WILLIAMS

The United States and Japan, as currently the two largest markets in the world, share a special responsibility for the health and growth of the global economy and trading system. The growth and current importance of Japan's market is particularly noteworthy. One must respect the economic success of Japan and the hard work of the Japanese people in supporting that success. At the same time, the success of Japanese exports to the U.S. and other markets has focussed attention on the problems U.S. and other exporters have in gaining access to the Japanese market.

Until this decade, Japan had high formal trade barriers, which protected most sectors of its economy from foreign competition, and government policies and practices that encouraged exports and domestic savings and discouraged imports and domestic consumption. The United States and Japan have worked together over the past few years to reduce Japan's formal trade barriers and to coordinate macroeconomic policies that affect trade. Among other things, since early 1985, the dollar has depreciated 45% against the yen; Japanese domestic consumption rose at an annual rate of 5.7% from 1985 to 1988, a full point and a half faster than its GNP growth rate of 4.2% over this period. In the U.S. gross saving by the government and private sectors has risen from a post-war low of 12.4% of GNP in 1987 to 13.6% of GNP in this year's first quarter. Nevertheless, substantial imbalances in the bilateral trade and current accounts persist with Japan, despite marked reductions with other trading partners. Japanese imports of manufactured goods, particularly capital goods (in which the United States is otherwise internationally competitive), relative to GNP, remain significantly lower than in the United States and other developed countries, although imports have increased at a significant rate in recent years. The ratio of manufactures imports to GNP in Japan was 2.8% in 1987 and 3.2% in 1988; in the United States, it was 7.2% in 1987 and 7.4% in 1988.

Part of the answer to these imbalances lies in macroeconomic policies, but, as noted, the United States and Japan have made substantial progress in making necessary adjustments. Part of the answer lies in the strength of U.S. import pull. The ratio of nonfood consumer goods imports to personal consumption expenditures in Japan in 1988, however, was only 1.5%, in contrast to 3.1% in the United States. Part of the answer may lie in the competitiveness of U.S. goods and services. As noted, Japanese products and services are highly competitive. In a wide range of products and services, however, U.S. companies consistently outperform their Japanese competitors in "neutral" third markets, such as Europe.

The failure of U.S. and other foreign goods to gain greater access to the Japanese market, despite their competitiveness of price and duality in other markets and despite macroeconomic adjustments and the relative lack of formal trade barriers, leads us to conclude that there are structural factors in the Japanese economy that hamper imports and distort the economy. This conclusion is supported empirically. A recent comparative study of the buying procedures of the Australian subsidiaries of U.S., Japanese and European manufacturing companies indicated that almost all of the Japanese firms simply purchased Japanese equipment, without ever considering using non-Japanese sources or using international competitive bidding. A recent report by the Japanese Economic Policy Agency supports this view, that Japanese companies very rarely "shop around" for competitive products. By contrast, virtually all of the U.S. and most of the European subsidiaries used international competitive bidding for equipment. Again, this is not explained by the argument that Japanese duality is better. These observations suggest that there are some structural rigidities that create a domestic market in which foreign competition is substantially restricted. By reducing the level of competition, they raise prices and narrow the range of choice in the marketplace. These rigidities may or may not have been intended to inhibit imports; many were intended to "discipline" domestic competition. They have, nonetheless, a particularly adverse effect on newcomers to the market, but which results, of course, in a disproportionate effect on foreigners. Many of

these structural factors have their origins in earlier government policies and practices. Many are still supported by government policies and practices.

These rigidities, unless addressed, will result in further aggravation of trade frictions. The effects of these rigidities are far too important to leave to desultory dialogue. At the same time, they are not easily addressed (although they can be addressed) by the trade remedies that we sometimes have to apply to particular sectors. Hence, the genesis of this Structural Impediments Initiative, which the Japanese Government has agreed to join. We have said before that Japanese trade practices are not responsible for our overall trade deficit; we must look primarily to macroeconomic factors for that. Japan is responsible, however, for access to its domestic markets. Put another way, although the bilateral trade deficit has perhaps fueled the political fire that causes us to address structural barriers, we should be having this Structural Impediments Initiative even if we had a trade surplus with Japan. Moreover, as the Japanese economy matures and Japanese people themselves become more accustomed to having economic wealth, Japanese themselves have begun to question these rigidities and their adverse effects on efficiencies in the domestic market and on the quality of life in Japan. At this point, we have identified some structural impediments for this initiative in a preliminary fashion. Our list is flexible in that items may be added to it or removed from it, and flexible in that some items may proceed more quickly than others. There will be some overlap between the areas of concern to us. This will require coordination among the U.S. and Japanese agencies involved in the Initiative.

In addition to the three co-chairs designated by the President, the Departments of Commerce, Agriculture, Justice and Labor, and the President's Council of Economic Advisers form the U.S. "team," reporting to the Economic Policy Council and ultimately to the President. Each of these agencies has been assigned responsibility to lead or co-lead one or more of the structural areas identified for the Initiative. The lead agencies will be responsible for preparing studies and proposals according to an agenda agreed among all the agencies, for leading the discussions with the Japanese agencies on a particular subject. The three co-chairs, the Department of Commerce and the Council of Economic Advisers will participate in all subjects.

We consider this a mutual exercise. The Japanese agencies have given us a preliminary list of subjects that are, in their view, structural impediments to trade in the United States. They have not made that list public, and we are, therefore, constrained not to do so; but we believe the list we saw is a reasonable basis for discussion.

A recently-published "vision" by MITI on the distribution system in Japan (as have other reports) called upon Japan to become an "importing superpower," as did the Prime Minister in an address to government and business leaders in June 1989. That is a laudable goal, the accomplishment of which we would like to assist through this Structural Impediments Initiative—and the accomplishment of which is essential to the continued vitality of the liberal trading system. Accomplishing that goal will require that all constituent elements of the Japanese market government procurement, the corporate marketplace for capital and producer goods, and the consumer marketplace—be actively open to and seeking imports. Japanese companies have benefited greatly by open access to foreign markets, especially the U.S. market. It is appropriate for them to play a central role in structural adjustments that will open the Japanese marketplace to foreign competition.

We firmly believe that only trade flows can solve trade issues. That means the Japanese market needs to pull in more imports. With Japan having the lowest manufactured goods imports to GNP ratio in the developed world, major political problems are created by the continuing perception that the Japanese market is a very reluctant purchaser of foreign goods, particularly producer and capital goods. We recognize that the recent trend of Japanese imports is improving in terms of percentage of growth, but that is a percentage off a small base. We believe the base should be broadened and deepened in both the corporate and consumer areas.

Our objective is change, change that will make the Japanese economy more accessible to foreign goods and services to the participation of foreign investors. We consider the Structural Impediments Initiative an important and necessary part of our overall trade and economic relationship with Japan. It can benefit U.S. companies and U.S. economic efficiency and trade, and the global trading system by further opening the world's second-largest market, and it should benefit Japanese corporate and individual consumers as well by giving them more choices and greater opportunity to achieve higher standards of living.

COMMUNICATIONS

STATEMENT OF THE AMERICAN NATURAL SODA ASH CORPORATION

The American Natural Soda Ash Corporation (ANSAC) is a Webb-Pomerene Corporation which represents six U.S. producers of soda ash (General Chemical, Kerr-McGee, Texasgulf, Tenneco, FMC and Stauffer).

U.S. soda ash producers have confronted structural market barriers in Japan for many years. The Japanese soda ash producers, with their affiliated trading companies, have regulated the volume of U.S. soda ash sold on the Japanese market, limiting the extent to which U.S. firms can capitalize on their natural cost advantages to expand their sales in Japan. ANSAC is submitting herewith excerpts from a submission to the Office of the U.S. Trade Representative made on March 24, 1989 detailing the market access problems encountered by U.S. producers and the recent history of U.S. efforts to secure greater access.

ANSAC notes that since its submission to USTR in March of this year, U.S. sales in Japan have improved significantly. ANSAC now anticipates that U.S. exports to Japan will reach a level of about 300 thousand metric tons in 1989, an all-time high. While this trend is encouraging, it does not indicate that market barriers to U.S. sales have been eliminated. Increased U.S. sales are attributable to a number of other factors: Increased consumption in Japan. ANSAC has received a pro rata share of an expanding market. Establishment of three new warehouse locations for ANSAC inventory in Japan. Filling the pipeline involves new shipments of 15-20 thousand metric tons. Increased demand for soda ash from the Japanese steel industry has accounted for additional sales of about ten thousand tons.

Despite an encouraging growth in sales volume, ANSAC's ability to sell in Japan remains restricted by precisely the sort of "structural impediments" that are the subject of the President's current initiative. The situation in the soda ash sector warrants continued monitoring by the U.S. government to ensure that U.S. producers ultimately receive a position in the Japanese market fully commensurate with their demonstrated competitiveness.

Enclosure.

BEFORE THE OFFICE OF U.S. TRADE REPRESENTATIVE, WASHINGTON, DC

REQUEST OF THE AMERICAN NATURAL SODA ASH CORPORATION (ANSAC) FOR INCLUSION
OF SODA ASH IN THE NATIONAL TRADE ESTIMATES REPORT FOR JAPAN

[Excerpted version]

The American National Soda Ash Corporation ("ANSAC") is a Webb-Pomerene Corporation which represents six U.S. producers of soda ash (General Chemical, Kerr-McGee, Texasgulf, Tenneco, Stauffer, and FMC). Pursuant to Section 303 of the Trade and Tariff Act of 1984, ANSAC requests that the Office of U.S. Trade Representative include soda ash in its list of trade barriers in Japan in the *National Trade Estimate Report* for the current year.

Market barriers in Japan have restricted U.S. sales of soda ash since the early 1970s, when U.S. firms first began significant export shipments to Japan. In 1988, U.S. producers exported 267 thousand tons of soda ash to Japan, or about 20 percent of domestic consumption. ANSAC believes that in the absence of market barriers U.S. firms would have sold 868 million more metric tons of soda ash in Japan in the years 1984-88 than the 1,117 million tons actually sold. These sales would have generated an additional \$134.7 million in revenues for U.S. soda ash producers. In preparing its annual *National Trade Estimate Report*, the Office of U.S. Trade Repre-

sentative has repeatedly cited soda ash as a sector in which U.S. firms are encountering significant market barriers in Japan, and a similar finding is appropriate for purposes of the current report. The barrier confronted by U.S. producers in Japan is a group consisting of the four Japanese soda ash producers (Asahi Glass, Central Glass, Toyo Soda and Tokuyama Soda) and their affiliated trading companies, which have regulated U.S. access to the Japanese market through anticompetitive actions including control of the distribution channels and terminal facilities, pressure on Japanese distributors and consumers, and (at least until 1983) joint arrangements on customer allocation, sharing of profits, losses, and distribution. Japan's Fair Trade Commission (JFTC) has investigated U.S. allegations on two occasions; in 1983 it found the existence of an illegal cartel, which it ordered to cease, and in 1987, it found the existence of certain potentially "problematic" practices, and formally admonished Japanese soda ash producers to take care not to violate the Antimonopoly Law. Despite these two actions, and a long series of bilateral U.S.-Japan discussions ANSAC believes that U.S. sales of soda ash in Japan are still regulated by the Japanese producers and their affiliates.

* * * * *

BACKGROUND

The United States enjoys a substantial comparative advantage over Japan in soda ash. Because of abundant deposits of natural ash, the U.S. can produce higher quality soda ash, at a lower cost, than any other country in the world. Japan must manufacture soda ash by a variety of synthetic methods, utilizing imported raw materials and energy. This disparity gives U.S. firms a commanding cost advantage.

	Japan	United States
Energy (Cal./M ton).....	31,500	28,500
Labor (People/M ton).....	1.05	.44
Raw Materials (Yen/M ton).....	15,000	2,750

In the 1970s U.S. firms began seeking to exploit this cost advantage by expanding their sales position in Japan. However, they found that a cartel consisting of the four Japanese soda ash producers, Asahi Glass, Toyo Soda, Tokuyama Soda and Central Glass, together with their affiliated trading companies, controlled the Japanese distribution system and were able to regulate U.S. sales in a manner which prevented U.S. firms from achieving significant increases in sales.

In essence, the four Japanese producers agreed to import soda ash jointly to maintain "order" in the domestic market. They used designated trading companies, affiliated with them to conclude all import transactions with U.S. exporters. They established a joint facility, Toko Terminal, dedicated to the handling of imported soda ash. They shared profits and losses according to an agreed ratio, agreed on prices of soda ash to consumers, and annually set a figure for the volume of imports which would be permitted, a figure which was given to the trading companies dealing with U.S. producers. (The functioning of this system is described in ANSAC's 1986 white paper, *Japanese Market Barriers in Soda Ash*, attached).

U.S. producers and the U.S. government complained to the Japanese government about the cartel's restrictions on U.S. sales. The Ministry of International Trade and Industry ("MITI") contended that no cartel existed, and that U.S. companies' low level of sales was attributable to their lack of price aggressiveness, quality problems, and concerns about their reliability as suppliers. However, in March 1983, the Japan Fair Trade Commission ("JFTC"), after investigation, found that a cartel consisting of the four Japanese producers was restricting import sales, and it ordered this activity to cease.

In 1983, in the immediate aftermath of the JFTC finding, U.S. sales increased substantially. This was attributable (1) to the JFTC decision; (2) to a new distribution channel established pursuant to which Sumitomo Shoji, a Japanese trading company, undertook to distribute U.S. soda ash; and (3) to the formation of ANSAC, which improved U.S. economies of scale; and (4) to the fact that local producers were experiencing difficulty in satisfying local demand.

CONTINUING PROBLEMS 1985-1989

By mid-1985 U.S. sales of soda ash in Japan were clearly stagnating, and U.S. producers began to receive numerous indications that the Japanese producers and their affiliated trading companies were still regulating the market to restrict import growth. Specifically:

1. In 1984 an executive from one of the U.S. firms selling soda ash in Japan interviewed numerous Japanese soda ash consumers and trading companies in Japan to plan a marketing strategy. He was told by a number of Japanese consumers that a percentage cap had been placed on their purchases of U.S. soda ash (e.g. 30%, 20%) by their traditional suppliers and that no additional U.S. tons would be purchased regardless of the price or other terms. He was also told that an overall limit of 210-220 thousand tons had been placed on U.S. import volume.

2. U.S. sales executives visiting individual accounts in 1985 were told by some Japanese customers that they could not purchase U.S. soda ash without *pré*-clearance by their traditional suppliers, who would give them a quota of U.S. purchases which was allowable. In one case a Japanese customer was told that "20 percent was enough for the Americans." The threat—explicit in some cases and implicit in all—was that if these limits were exceeded, the supplier would not supply the customer in the event of an interruption in U.S. supply. This prospect is particularly daunting to glassmakers who may incur major costs if they are forced to shut down furnaces and other facilities.

3. Japanese distributors who were engaged by U.S. firms to distribute soda ash encountered pressure from a variety of sources. A company which was employed by ANSAC to enter the bagged soda ash market (a particularly profitable sector) received a phone call from MITI saying that he should not go into the bagged ash business because it would "not be good for Japan." (Prior to this, many attempts to engage distributors for bagged ash had failed). In 1986 a Japanese company was warned by one of the Japanese producers, Tokuyama Soda, that if it did not cease distributing U.S. ash, Tokuyama would cease purchases of all products from this company.

4. At the end of the calendar year, ANSAC received soda ash orders from Japanese trading companies who would only place the orders upon assurances that the purchase would not cause total sales for the year to exceed the average for the prior year. At the end of 1986 one trading company, placing such an order for 7,000 tons, said "we want you to do as well as last year but we don't want to give you growth." At the end of 1988, an order was placed by a trading company which was inordinately concerned whether the order would be counted as part of the U.S. total for 1988 or for 1989—a concern which is commercially irrelevant, but quite relevant if someone is trying to administer a quota.

COMMERCIAL DEVELOPMENTS

U.S. soda ash enjoys competitive advantages in Japan that are not always shared by other U.S. export problems. U.S. quality is very good—on a par with Japanese quality—a fact which MITI has acknowledged on occasion. The U.S. industry has made a major resource commitment to serving the Japanese market:

- The U.S. industry maintains several months' inventory of soda ash in Japanese warehouses to allay customer concerns about availability.
- ANSAC has contracted for a vessel dedicated solely to delivering U.S. soda ash to the Japanese market. The contract forbids the carrying of other cargo and means the return voyage to the U.S. is in ballast. This is to ensure that there is absolutely no danger of contamination en route.
- U.S. producers have engaged Sumitomo Shoji, a major Japanese trading company which is not affiliated with the Japanese producers, to distribute U.S. soda ash in Japan.

The greatest single U.S. competitive advantage, however, is price. The U.S. cost advantage was substantial even during the years of the strong dollar, and has widened as the dollar has weakened against the yen.

When U.S. firms entered the Japanese soda ash market in the early 1980s, the market price for soda ash was 55-60 yen/ton (prices vary from customer to customer; there is no single "market price"). U.S. firms and their Japanese distributors used price discounts as a lever to expand their share of the Japanese market, and have been the price leaders since the early 1980s. By 1988, prices had fallen to 30-35 yen/ton. U.S. price discounts have varied by account and by month, but have ranged from 2 to over 20 percent. Japanese firms have generally not met U.S. discounts completely, but after 1985 they increasingly lowered their prices to a level

several yen/ton above the U.S. offering price, a move that was often followed by further U.S. discounts.

ANSAC's efforts to expand its sales in Japan led to some incidents which were of interest because of the light they shed on the nature of the Japanese market.

- As ANSAC expanded its sales force, it contacted increasing numbers of small customers. These firms usually reported that they had one traditional Japanese supplier and that they never received competitive offers from other Japanese soda ash producers. One larger customer indicated in 1987 that it had not received a competitive offer from another Japanese firm for over twenty years. This apparent lack of competition among Japanese firms suggests a continuing market segmentation, whether formal or informal, between Japanese producers.

- Some Japanese customers refused to buy any U.S. soda ash on any terms whatsoever, and one such firm refused an offer of four free truckloads of ANSAC soda ash in early 1987.

- Some Japanese soda ash customers have pleaded with ANSAC not to cut the price of soda ash to them, despite the obvious economic benefits, because of the problems this would create with those firms' relationship with local suppliers. ANSAC has received very sharp expressions of displeasure from customers to whom ANSAC unilaterally extended price cuts on existing sales volumes without prior consultation.

Toko Terminal.—The Toko Terminal was established by the Japanese soda ash producers and its affiliated trading companies as Japan's only port facility dedicated solely to handling soda ash. In 1983, as part of its order against the Japanese cartel, the JFTC directed the Japanese producers to cease using this facility in a manner which restricted U.S. imports. ANSAC has utilized Toko Terminal (as well as other port facilities), but has encountered periodic problems with the handling of its product, in effect, by its principal Japanese competitors. Beginning in 1987, ANSAC has requested that it be allowed to purchase an equity position in Toko Terminal to acquire a voice in the management of the facility. Toko Terminal's owners have refused to consider this proposal.

The Sumitomo arrangement.—Prior to mid-1988, U.S. soda ash was sold in Japan through two main distribution channels. FMC soda ash was sold by Sumitomo Shoji, a trading company which is independent of the Japanese producers' group. ANSAC soda ash (apart from the FMC tonnage) was sold through Stauffer Japan Ltd., a subsidiary of Stauffer, and through a variety of Japanese distribution companies. However, in 1988, Stauffer Japan was acquired by a foreign firm, requiring ANSAC to restructure its distribution system. In July 1988 ANSAC named Sumitomo its sole distributor in Japan.

Sumitomo was chosen because of its record of aggressive sales of U.S. soda ash in Japan on behalf of FMC. In perhaps a negative acknowledgement of Sumitomo's marketing capabilities, the Japanese soda ash producers reportedly expressed displeasure over the new arrangement. Several large Japanese trading companies affiliated with the Japanese producers regard the designation of Sumitomo as a threat to their traditional business, and have reportedly counseled consumers to refuse to deal with Sumitomo as ANSAC's new agent. ANSAC is currently being pressured to pay commissions to unwanted middlemen and/or offer price inducements before customers will accept Sumitomo.

U.S. GOVERNMENT ACTIONS

In March 1986 ANSAC presented a White Paper on the renewed problems in soda ash to the Office of U.S. Trade Representative. USTR Clayton Yeutter responded by appointing a special negotiating team consisting of Clyde Prestowitz and Joseph Massey to look into the issue (Prestowitz resigned from the government shortly thereafter). MITI responded to the U.S. industry's charges by indicating (1) that there was no evidence of a cartel or a resurgence in anticompetitive practices, and (2) that U.S. stagnation in sales was attributable primarily to the lack of price competitiveness of U.S. firms.

The soda ash issue was the subject of considerable attention by both the executive and legislative branches between 1986 and 1988. USTR and the Department of Commerce raised the issue on numerous occasions both informally and in formal bilateral discussions. The Ambassador Mansfield personally raised soda ash with Japanese officials on several occasions. Wyoming Senator Wallop visited Japan on two occa-

sions (and hosted Japanese Ambassador Matsunaga in Wyoming) to express his concerns on the soda ash issue. Members of the Senate Finance, House Ways and Means and Energy and Commerce Committees have written to and spoken with Japanese officials on the issue.

SIGNIFICANCE OF THE RESTRICTIVE JAPANESE PRACTICES

Beyond the actual volumes of trade affected, the soda ash problem in Japan is significant for several reasons. First, the United States currently suffers a massive trade deficit, and if that deficit is to be eliminated, it is essential that competitive U.S. exports not be foreclosed from foreign markets by artificial barriers. Current U.S. policy emphasizes maintaining a competitive alignment of exchange rates to ensure that U.S. exports are fully price-competitive abroad. Soda ash is a product in which the United States enjoys a clear comparative advantage—superior cost, quality, and availability—and if sales of U.S. soda ash to Japan cannot be significantly expanded despite these advantages one must question the basic premises underlying current U.S. trade priorities. If the markets of major trade surplus countries like Japan are not price-elastic, then a trade policy whose centerpiece is the exchange rate may not achieve its objectives.

Second, the soda ash highlights a pervasive problem in U.S.-Japan trade relations—the fact that Japan's weak antitrust enforcement enables powerful groups of manufacturers and distributors to regulate access to the Japanese market, a phenomenon that has been evident not only in soda ash, but sectors as diverse as construction, auto parts, semiconductors, consumer electronics, textiles, cement, and steel. Japan's "privatization of protectionism" is one of the principal reasons that in spite of the strong yen, the virtually complete lack of formal import restrictions, and the proximity of highly cost-competitive industries in Korea and Taiwan, Japan's imports of manufactured goods remain negligible by world standards.

The U.S. government has not devised an effective way to deal with anticompetitive foreign practices that block competitive U.S. exports. As a practical matter such activities are beyond the reach of U.S. antitrust remedies. The absence of overt foreign government policy measures makes the U.S. government reluctant to confront the foreign government involved. The soda ash case shows the limits of cooperation with local antitrust authorities.

STATEMENT OF CHAPARRAL STEEL COMPANY

Chaparral Steel Company submits this statement for the Committee's hearing record on Japanese structural trade barriers. Chaparral would like to share with this Committee its experience—and recent success—in gaining access to the Japanese market for structural steel products produced at its plant in Midlothian, Texas.

Chaparral is a modern, efficient and low-cost producer of steel bars and bar shapes, structurals and reinforcing bar—so-called "long products" that are used primarily in the building and construction industry. Chaparral, which will soon be capable of producing nearly one and one half million tons of steel a year, is the tenth largest steel producer in the United States.

Chaparral sells steel throughout the United States and abroad and is aggressively seeking new export markets as part of its marketing strategy. Chaparral is confident of its ability to compete in world markets—if trading barriers are removed—because it produces a ton of steel with less than one and a half man hours of labor. As a result, Chaparral's labor cost per ton is less than the ocean freight on export shipments.

The Japanese market in particular holds enormous potential for Chaparral. Because of Chaparral's productivity, it can compete on price and quality with Japanese structurals. However, it is impractical to export structural steel to Japan unless it is certified as being in compliance with the Japanese Industrial Standards system, known as "JIS." The JIS mark is required before structural steels can be used in any public works project, the principal Japanese market for structural steels.

Determined to participate in the Japanese market, Chaparral decided to apply for JIS certification nearly two years ago. While Chaparral has now been qualified, the application process was lengthy, difficult and expensive.¹ In fact, the U.S. Trade

¹ Chaparral has compiled a chronology documenting its efforts to gain JIS certification that can be provided to the Committee upon request.

Representative has identified the JIS system as a non-tariff barrier in its annual Report on Foreign Trade Barriers. This formal trade barrier helps to perpetuate the restrictive buying and distribution practices that are the subject of the Structural Impediments Initiative.

During consideration of its JIS application, Chaparral cooperated fully with the Japanese Ministry of Trade and Investment ("MITI") procedures by providing complete information regarding chemical composition, dimension and mechanical properties. However, the company refused to divulge proprietary information that does not bear on quality assurance standards. For example, MITI requested detailed information on the actual values of Chaparral's power input, blow-time, speeds, etc. Chaparral objected, since the control of manufacturing equipment is highly confidential and is what makes Chaparral one of the world's most efficient and competitive structural producers. While MITI assured Chaparral that such information would be kept confidential, Chaparral was concerned that disclosure could result in a technology transfer to Japanese competitors and refused to provide the information. Ultimately, MITI agreed to process the application without that information.

MITI approved Chaparral's application to use the JIS Mark on April 20, 1989.² To Chaparral's knowledge, it is the only U.S. steelmaker and only the second outside of Japan to receive JIS approval. The JIS mark enables Chaparral to be considered on a par with any Japanese approved mill for standards and quality. On May 17th, Chaparral shipped its first structural H-beams to Osaka, Japan, bearing JIS Factory Approval Number 8905. This initial shipment is a small but important beginning in the company's long-term plans to participate in the Japanese market.

As a result of its JIS experience, Chaparral has the following observations:

First, U.S. companies must be given meaningful opportunity to demonstrate their ability to meet foreign industrial quality standards. If standards are unattainable, they prove to be a significant trade barrier which protects markets and promotes dumping.

Second, compliance with the standards procedures should not be used as a guise to force technology transfer.

Third, U.S. companies should be able to self-certify that their products meet the standards at the factory in the United States without having to go through further testing in the target country. For example, there are standards in the U.S., known as ASME (American Society of Mechanical Engineers) and ASTM (American Society for Testing and Materials) and the Japanese and other producers are allowed to self-certify that their exports to the U.S. meet these standards.

Finally, Chaparral wants this Committee to know that the State Department, the U.S.T.R. and the Commerce Department were kept advised of the company's JIS application and the difficulties that were encountered. Without exception, these agencies, including the U.S. Embassy in Tokyo, were supportive of Chaparral's application and were of considerable assistance. Chaparral is grateful for that support.

² A copy of the JIS Marking Approval Certificate and accompanying JIS mark are attached.

日本工業規格表示承認書

JIS MARKING APPROVAL CERTIFICATE

承認番号 APPROVAL NUMBER
US 8806

チャパラル・スチール・カンパニー 殿
MESSRS. CHAPARRAL STEEL COMPANY

工業標準化法第25条の2第1項の規定により
PURSUANT TO THE INDUSTRIAL STANDARDIZATION LAW ARTICLE 25-2 PARAGRAPH 1,
日本工業規格の表示について下記のように承認する
FOLLOWING IS APPROVED IN REGARD TO JIS MARKING.

平成元年4月20日

20 APRIL 1989

通商産業大臣 三 塚

MINISTER OF
INTERNATIONAL TRADE
AND INDUSTRY

MITSUZUKA
HIROSHI

記



DESCRIPTION

承認工場又は 事業場の名称 NAME OF APPROVED FACTORY OR ESTABLISHMENT	チャパラル・スチール・カンパニー CHAPARRAL STEEL COMPANY
所在地 LOCATION	アメリカ合衆国テキサス州ミッドロシアンウォードロード300 300 WARE ROAD MIDLOTHIAN, TEXAS, U.S.A.
表示承認品目 ITEM OF MARKING APPROVAL	圧延鋼材 ROLLED STEEL
日本工業規格の番号 JIS NUMBER	名称 JIS G 3101
	等級又は種類 GRADE OR CLASSIFICATION
	一般構造用圧延鋼材 ROLLED STEEL FOR GENERAL STRUCTURE
	形番 SHAPES



From the Desk of:
Tom Harrington



J.I.S. Factory Approval # U.S. 8905

STATEMENT OF THE CHOCOLATE MANUFACTURERS ASSOCIATION

INTRODUCTION

The Chocolate Manufacturers Association of the United States of America represents 13 companies who produce approximately 85% of the chocolate products made in the United States including confectionery, baking products, syrups, cocoa for drinking, and chocolate milk. In addition, members produce the chocolate and cocoa ingredients used in confectionery, ice cream, baking goods, cereals, biscuit and cracker products. The industry is the second largest industrial user of refined sugar and a major consumer of domestically produced peanuts, milk and milk products.

In 1988, the value (FOB) of United States' chocolate exports to Japan exceeded \$50 million.

INCLUSION OF THE "FAIR COMPETITION CODES" IN THE STRUCTURAL IMPEDIMENTS
INITIATIVE WITH JAPAN

Summary

United States and Japanese Government agencies have recognized the Anti-monopoly Law of Japan as a source of some of the regulatory practices that may be contributing to the maintenance of Japan's structural barriers to trade. United States companies attempting to establish their products in Japan and build market share have specifically identified the *Act Against Unjustifiable Premiums and Misleading Representations* under the Anti-Monopoly Law and the system of "fair competition codes" authorized by the Act as a serious deterrent.

The Committee is requested to insist on full exposure and examination of the Act in the Administration's Structural Impediments Initiative; and to exert all possible influence to bring about the elimination of Japan's system of "fair competition codes" which suppress legitimate promotion activities and act as barriers to U.S. companies in the Japanese market.

Background

The Act Against Unjustifiable Premiums and Misleading Representations (Law No. 134 of 1962) was promulgated during a time of intensified foreign competition in Japan resulting from the Government's early market opening measures.

The Diet's legislative record of the premium regulations reveals that, among other things, these regulations were strongly designed to restrict the methods of competition, and consequently to restrict large foreign companies from effectively competing with Japanese companies in the domestic market.

The reasoning was that domestic companies should be protected. The result was conflicting national policies. While the Japanese Government announced marketing opening on one hand, the other hand set forth severe restrictions on promotional activities which weigh most heavily on foreign companies who are new markets.

For Japanese companies whose identity, status, sales network and market share is established, there is little advantage to offering premiums and economic incentives to consumers and dealers. However, for those companies not well known and without an established sales force as is the case for most foreign companies, offering legitimate economic benefits as a means of incentive at each level of distribution and to the consumer is a well established tool for entering a new market and competing successfully over the long term.

The "Premium and Promotion Act" is administered by the Japan Fair Trade Commission (JFTC). Between 1962 and 1982, the JFTC issued a series of "Notifications" under the Act (Exhibit A). Three set forth restrictions on premium and promotion activities that apply to industries in general. Notification No. 8 of 1965 severely limits premiums and promotions in the chocolate industry. Twenty two additional industries including footwear, electronics, automobiles, magazines, cameras, instant noodles and others are also subject to restrictive "fair competition codes." Exhibit A lists the industries involved. In each case, a fair trade association composed of Japanese companies was authorized by the JFTC to write and enforce the industry's "code."

The "codes" inherently contradict a fundamental principle of anti-monopoly law by allowing some competitors to rule over others. Over the years, this system has served as an effective tool by which entrenched Japanese companies maintain dominance by restricting new or innovative marketing programs of domestic and foreign competitors. As just one example, the premium regulations have been a major obstacle to access and distribution in the Japanese market for imported chocolate and as a result the control of Japan's chocolate industry has remained in the hands of a few companies since 1962.

Last year the Justice Department and the U.S. Trade Representative obtained partial concessions from the JFTC to liberalize the premium and promotion restrictions in the "chocolate codes." This breakthrough gave U.S. companies the opportunity to use some familiar and proven marketing tools in Japan for the first time in 25 years.

Nevertheless, the "chocolate codes" continue to act as a barrier to new market entrants and particularly to American chocolate companies who have established a foothold in Japan and are attempting to challenge entrenched domestic market leaders. Removal of the premium and promotion restrictions in the "chocolate codes" will give our companies the freedom to apply proven marketing tools including premiums, rebates, coupons, prizes and sweepstakes and could make the critical difference to their success in the Japanese market.

The Chocolate Manufacturers Association of the USA respectfully urges the Senate Finance Committee to examine Japan's system of "fair competition codes" and to actively pursue with the Administration elimination of the "Restrictions on Promotions in the Chocolate Industry" and other industry codes which inhibit American companies' access and competitive position in the Japanese market.

1. ACT AGAINST UNJUSTIFIABLE PREMIUMS
AND MISLEADING REPRESENTATIONS
(Act No. 134 of May 15, 1962)

Amendment: Act No. 44 of May 30, 1977

We hereby promulgate Act Against Unjustifiable Premiums And Misleading Representations.

Prime Minister Hayato Ikeda

Act Against Unjustifiable Premiums And Misleading Representations

Sec. 1 (purpose)

This Act, by establishing special provisions for the Act Concerning Prohibition of Private Monopoly and Maintenance of Fair Trade (Act No. 54 of 1947), aims to prevent inducement of customers by means of unjustifiable premiums and misleading representations in connection with transactions regarding a commodity or service, and thereby to maintain fair competition as well as to protect the interest of consumers in general.

Sec. 2 (definitions)

(1) The term "premiums" as used in this Act shall mean any article, money or other kinds of economic benefits which are given as means of inducement of customers, regardless of whether a direct or indirect method is employed, or whether or not a lottery method is used, by an entrepreneur to the other party in connection with a transaction involving a commodity or service (transactions relating to real estate shall be included), and which are designated by the Fair Trade Commission as such.

(2) The term "representations" as used in this Act shall mean advertisement or any other descriptions which an entrepreneur makes or uses as means of inducement of customers, with respect to the substance of the commodity or service which he supplies or the terms of sale or any other matter concerning the transaction, and which are designated by the Fair Trade Commission as such.

[Note: Subsec. 1 and 2 "designation" = designation of premiums and representations under the provisions of Section 1 of Act Against Unjustifiable Premiums and Misleading Representations (FTC Notification No. 3 of June 30, 1962)]

Sec. 3 (Restriction or prohibition of premiums)

The Fair Trade Commission may, when it finds it necessary to prevent unjust inducement of customers, limit the maximum price of a premium or the aggregate amount of premiums, the kind of premiums or method of offering of a premium or any other matter relating thereto, or may prohibit the offering of a premium.

- Note:
1. Restriction on Premium Offers by Lotteries or Prize Competition (FTC Notification No. 3 of 1972)
 2. Restriction on Premium Offers to Entrepreneurs (FTC Notification No. 17 of 1967)
 3. Restriction on Premium Offers to General Consumers (FTC Notification No. 5 of 1972)
 4. Restriction on Premium Offers in Newspaper Industry (FTC Notification No. 15 of 1964)
 5. Restriction on Premium Offers in Chocolate Industry (FTC Notification No. 8 of 1965)
 6. Restriction on Premium Offers in Camera Industry (FTC Notification No. 33 of 1965)
 7. Restriction on Premium Offers in Instant Noodle Industry (FTC Notification No. 11 of 1966)
 8. Restriction on Premium Offers in Curry and pepper Industry (FTC Notification No. 11 of 1967)
 9. Restriction on Premium Offers in Processed Tomato Food Industry (FTC Notification No. 39 of 1967)
 10. Restriction on Premium Offers in Wheat Cleaning Industry (FTC Notification No. 89 of 1968)
 11. Restriction on Premium Offers in Magazine Industry (FTC Notification No. 4 of 1977)
 12. Restriction on Premium Offers in Frozen Bean Curd Industry (FTC Notification No. 40 of 1970)
 13. Restriction on Premium Offers in Chewing Gum Industry (FTC Notification No. 4 of 1971)
 14. Restriction on Premium Offers in Biscuit Industry (FTC Notification No. 36 of 1971)
 15. Restriction on Premium Offers in Soy Sauce Industry (FTC Notification No. 45 of 1977)
 16. Restriction on Premium Offers in Cosmetic Soap Industry (FTC Notification No. 82 of 1971)
 17. Restriction on Premium Offers in Bean Paste Industry (FTC Notification No. 47 of 1977)
 18. Restriction on Premium Offers in Household Electric Appliances Industry (FTC Notification No. 2 of 1979)
 19. Restriction on Premium Offers in Sauce Industry (FTC Notification No. 3 of 1979)
 20. Restriction on Premium Offers in Margarine and Shortening Industry (FTC Notification No. 4 of 1979)
 21. Restriction on Premium Offers in Match Industry (FTC Notification No. 5 of 1979)
 22. Restriction on Premium Offers in Agricultural Machinery Industry (FTC Notification No. 43 of 1979)
 23. Restriction on Premium Offers in Automobile Industry (FTC Notification No. 44 of 1979)
 24. Restriction on Premium Offers in Liquor Industry (FTC Notification No. 6 of 1980)
 25. Restriction on Premium Offers in Tire Industry (FTC Notification No. 19 of 1980)
 26. Restriction on Premium Offers in Rubber and Synthetic Resins Footwear Industry (FTC Notification No. 25 of 1982)

Sec. 4 (Prohibition of misleading representations)

No entrepreneur shall make such representation as provided for in any one of the following paragraphs in connection with transactions regarding a commodity or service which he supplies:

- (i) Any representation by which the quality, standard or any other matter relating to the substance of a commodity or service will be misunderstood by consumers in general to be much better than the actual one or than that of other entrepreneurs who are in competitive relationship with the entrepreneur concerned, and thereby which is found likely to induce customers unjustly and to impede fair competition;
- (ii) Any representation by which price or any other terms of transaction of a commodity or service will be misunderstood by consumers in general to be much more favorable to the other transacting parties than the actual one or than those of other entrepreneurs who are in competitive relationship with the entrepreneur, and thereby which is found likely to induce customers unjustly and to impede fair competition; or